

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1944

SPONSOR: Senator Dockery

SUBJECT: Mobile Home Owners

DATE: March 27, 2003

REVISED: 04/07/03 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/2 amendments</u>
2.	<u>                    </u>	<u>                    </u>	<u>TR</u>	<u>Withdrawn</u>
3.	<u>                    </u>	<u>                    </u>	<u>JU</u>	<u>Withdrawn</u>
4.	<u>                    </u>	<u>                    </u>	<u>FT</u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>AGG</u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

## I. Summary:

This bill amends a number of provisions in ch. 723, F.S., relating to mobile home owners. Specifically, the bill provides for a \$1 per mobile home lot surcharge on mobile home park owners and \$1 tax surcharge on mobile home licenses to fund the Florida Mobile Home Relocation Trust Fund. Also, the bill increases park owner payments into the Florida Mobile Home Relocation Trust Fund (trust fund), and reduces the amount of money mobile home owners can receive from the Florida Mobile Home Relocation Corporation (corporation).

Further, the bill reduces the amount paid by the corporation to mobile home owners who abandon their homes and requires submission of additional documentation by home owners that apply for funds when it is necessary to abandon their home. This bill requires a petition for mediation to be initiated in order to have the right to file an action in circuit court. It prohibits a mobile home owner from bringing a cause of action against a park owner if the owner has already received compensation from the corporation. In addition, the bill prohibits a home owner with a pending eviction action from collecting from the corporation.

Under this bill, a park owner may charge a fee for the cost of cleanup or repair of the exterior of a mobile home, appurtenances to the mobile home, or any improvements to the lot. The bill includes tenants and occupants as parties who may become subject to eviction by the park owner. This bill provides for the placement, by a home owner or park owner, of a home on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the initial approval and creation of the mobile home park.

This bill substantially amends the following sections of the Florida Statutes: 48.183, 320.081, 715.101, 723.007, 723.023, 723.037, 723.041, 723.061, 723.0611, 723.06115, 723.06116, and 723.0612; and creates s. 320.08015.

## II. Present Situation:

Many mobile home parks in Florida are located on property with a land use designation that may change in the future when the mobile home park owner has an opportunity to sell the park. If home owners are required to move due to a change in land use of the mobile home park, there are statutory provisions in place to assist with relocation.

The Florida Mobile Home Relocation Corporation, s. 723.0611, F.S., establishes a corporation administered by a six-member board of directors. Three members are appointed by the Secretary of the Department of Business and Professional Regulation from a list of nominees submitted by the largest nonprofit association representing mobile home owners in this state and three members appointed by the Secretary from a list of nominees submitted by the largest nonprofit association representing the manufactured housing industry in this state.

Section 723.0612, F.S., provides for relocation expenses, and payments by a mobile home park owner. If a mobile home owner is required to move due to a change in use, and the mobile home owner meets certain conditions, the mobile home owner is entitled to payment from the corporation. The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or \$5,000 for a single-section mobile home, or \$10,000 for a multi-section home, whichever is less. Moving expenses are defined to include the cost of taking down, moving, and setting up the mobile home in a new location.<sup>1</sup>

The park owner is required to make payment into the Florida Mobile Home Relocation Trust Fund in the amount of \$2,000 per single-section home and \$2,500 per multi-section home when there is a change in land use that requires relocation of mobile homes. Currently, there is no statutory provision exempting the park owner from payment into the trust fund when the mobile home owner has an eviction action pending for non-payment of rent.

A home owner is not entitled to compensation for moving expenses if the park owner moves the home owner to another space in the mobile home park or to another mobile home park at the park owner's expense, the home owner gave notice of vacating the premises prior to receiving the notice of a change in use, or if the home owner abandons the mobile home.<sup>2</sup>

In order to obtain payment from the corporation, the home owner is required to submit an application for payment to the corporation and to the mobile home park owner. The corporation must approve payment from the fund within 45 days after receipt of the information or payment is deemed approved. A copy of the approval must be forwarded to the mobile home park owner with an invoice for payment. Upon approval, the corporation will issue a voucher in the amount of the contract price for relocating the mobile home, which the moving contractor may redeem upon completion of the move and approval of the relocation by the mobile home owner.<sup>3</sup>

In lieu of collecting moving expenses from the corporation, a home owner may elect to abandon the mobile home and collect from the corporation an amount equal to one-fourth of the allowable

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<sup>1</sup> S. 723.0612(1), Fla. Stat. (2002).

<sup>2</sup> S. 723.0612(2), Fla. Stat. (2002).

<sup>3</sup> S. 723.0612(3)-(4), Fla. Stat. (2002).

moving expense. Upon election of abandonment, the home owner must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home. If the home owner chooses this option, the park owner must make payment to the corporation in an amount equal to one-fourth of the allowable moving expenses.<sup>4</sup> However, the home owner is not required to submit documentation to the corporation in order to collect moving expenses.

The corporation is not liable to any person for recovery if the corporation does not have sufficient funds to pay the claims, but must keep a record of the time and date of its approval of payment even if the funds are not available. When funds do become available, the corporation must pay the claimant whose unpaid claim is the earliest by time and date of approval.<sup>5</sup>

Under current law, a home owner whose application for expenses has been approved by the corporation is not prohibited from asserting a claim or cause of action arising out of the change in use of the mobile home park against the corporation, the park owner or successors in interest. Also, a home owner may file an application for funding moving expenses even when the owner has filed a claim or cause of action, or has a judgment, against the corporation or the park owner or successors in interest directly relating to or arising out of the change in use of the mobile home park.<sup>6</sup>

Additionally s. 723.0611(2)(e), F.S., does not preclude a home owner from having a cause of action against the corporation or the park owner for any claim arising under the rights, duties, and obligations of the corporation or park owner if the home owner receives compensation from the corporation. There is no provision in the statute denying a home owner entitlement to moving expenses from the corporation when the home owner has an eviction action pending for nonpayment of rent which was filed prior to the mailing date of the change in land use.

#### **Florida Mobile Home Relocation Trust Fund**

The trust fund is established in s. 723.06115, F.S., within the Department of Business and Professional Regulation to be used by the corporation. The Legislature established this trust fund in 2001 to provide funds for the administration costs of the corporation and payments to mobile home owners under the relocation program. This trust fund received a one-time General Revenue Appropriation of \$500,000. Approximately \$260,000 is still available through the corporation and the trust fund.

Currently, an annual assessment of \$4.00 per lot is statutorily imposed on mobile home lots within mobile home parks. The fee is collected by the mobile home park owner and is paid to the division. The division has the authority, by rule, to increase annual fees from \$4.00 to \$5.00 for each mobile home lot. These revenues are deposited into the Florida Land Sales, Condominiums, and Mobile Homes Trust Fund in order to fund operations of the division.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 48.183, F.S., to include residential premises under chapters 83, 723, and 513, F.S., which govern landlord and tenant obligations, mobile home lot park tenancies, and

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<sup>4</sup> S. 723.0612(7), Fla. Stat. (2002).

<sup>5</sup> S. 723.0612(8), Fla. Stat. (2002).

<sup>6</sup> S. 723.0612(9), Fla. Stat., (2002).

mobile home and recreational vehicle parks, respectively, for purposes of service of process in actions for possession of premises.

**Section 2** creates s. 320.08015, F.S., to require mobile home owners to pay an additional \$1 surcharge on each license to be deposited into the trust fund. This surcharge will be collected during the first year after this act takes effect. Also, the surcharge may not be imposed if the balance in the trust fund exceeds \$10 million, but shall be reinstated in the next year if the balance drops below \$6 million.

**Section 3** amends s. 320.0801, F.S. to require that the county tax collector collect the above \$1 dollar surcharge from the mobile home owner and deposit that money into the trust fund.

**Section 4** amends s. 715.101, F.S., to provide the “Disposition of Personal Property Landlord and Tenant Act” is applicable to ch. 723, F.S., mobile home park tenancies.

**Section 5** amends s. 723.007, F.S., removing the authority of the Division of Land Sales, Condominiums, and Mobile Homes to increase annual fees charged to park owners by rule in an amount of \$1.00. This surcharge will be collected during the first year after this act takes effect. Also, the surcharge may not be imposed if the balance in the trust fund exceeds \$10 million, but shall be reinstated in the next year if the balance drops below \$6 million.

**Section 6** amends s. 723.023, F.S., to allow the park owner to charge a fee for the cost of cleanup or repair of the exterior of a mobile home, the appurtenances to the mobile home, or any improvements to the mobile home lot. The maintenance may be imposed only if the obligation to maintain such elements is specified by a rule or regulation, the rental agreement, or the prospectus and notice is mailed to the home owner at least 14 days prior to the cleanup or repair. The park owner may file an action in small claims court if the home owner fails to pay for the cleanup or repair.

**Section 7** amends s. 723.037, F.S., to require both park owners and home owners to seek mediation of a dispute concerning any matters addressed by s. 723.037, F.S., which include lot rental increases, reduction in services or utilities, or changes in rules and regulations, prior to filing an action in circuit court.

**Section 8** amends s. 723.041, F.S., to provide for replacement homes. Specifically, the bill authorizes a home owner or park owner to site any size new or used mobile home and appurtenance on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the initial approval and creation of the mobile home park. This provision may be preempted by conflicting requirements of the Department of Highway Safety and Motor Vehicles.

**Section 9** amends s. 723.061, F.S., to allow a park owner to evict mobile home tenants or occupants in addition to the owner, which ever is responsible, for one or more of the grounds provided in that section. These grounds include nonpayment of lot rental payment, conviction of a federal or state law or ordinance which is deemed detrimental to the health, safety, or welfare of other residents; violation of a park rule, regulation, the rental agreement or ch. 723, F.S.;

change in land use if all affected tenants are given at least 6 month's notice; and failure to obtain approval to be a tenant or occupant of the home if such approval is required by a valid rule.

In addition, the bill provides a 7-day deadline for a mobile home owner or mobile home tenant to vacate the premises when the owner or tenant has been convicted of a violation of a federal or state law or local ordinance which may be deemed detrimental to the health, safety, or welfare of other residents. The bill further provides that the purchaser of a home situated in the park may be denied initial tenancy in the park based on these convictions. This bill adds tenant or occupant to mobile home eviction notice requirements.

**Section 10** amends s. 723.0611, F.S., to prohibit a home owner from having a cause of action against the corporation or the park owner for any claim arising under the rights, duties, and obligations of the corporation or park owner under ss. 723.061-.0612, F.S., if the home owner has already received compensation from the corporation.

**Section 11** amends s. 723.06115, F.S., the language creating the trust fund, to specify the \$1 surcharges, collected from home owners and mobile home park owners under this bill, goes into the trust fund.

**Sections 12** amends s. 723.06116, F.S., to increase the amount that a park owner is required to pay into the trust fund from \$2,000 to \$2,750 per single-section home and from \$2,500 to \$3,750 per multi-section home when a home owner has made application for payment of moving expenses due to a change in land use. Also, the bill provides that a home owner is not entitled to moving expenses from the corporation if there is a pending eviction action for nonpayment of rent against the home owner which was filed prior to the mailing date of the change in use of the park.

**Section 13** amends s. 723.0612, F.S., to provide that a change in land use for a mobile home park entitles the home owner to receive, from the trust fund, actual moving expenses for relocating the mobile home within a 50-mile radius of the vacated park or \$3,000 for a single-section mobile home or \$6,000 for a multi-section mobile home. The bill reduces the amount a home owner is entitled to in payment from the corporation from \$5,000 to \$3,000 for a single-section home and from \$10,000 to \$6,000 for a multi-section.

This bill also amends s. 723.0612, F.S., to restate that a home owner is not entitled to moving expenses from the corporation if there is a pending eviction action for nonpayment of rent against the home owner which was filed prior to the mailing date of the change in use of the park.

Also, the bill specifies the amount of the home owner's entitlement is \$1,375 for a single section and \$2,750 for a multi-section home when the home owner abandons the mobile home due to a change in land use of the mobile home park.

Further, the bill requires the home owner to submit a document to the corporation signed by the park owner stating that the home has been abandoned and that the park owner agrees to make payment to the corporation in the amount provided in the statute. However, if the home owner's application to the corporation does not contain this signed document, the corporation may

consider the facts and circumstances surrounding the abandonment of the home to determine whether the mobile home owner is entitled to payment.

Finally, the bill provides that a person whose application for expenses has been approved by the corporation is barred from asserting a claim or cause of action arising out of the change in use of the mobile home park against the corporation, the park owner or successors in interest. The bill prohibits the approval of a home owner's application for funding if the home owner has either filed a claim or cause of action, is pursuing such claim or cause of action, or has a judgment against the corporation, the park owner or successors in interest directly relating to or arising out of the change in use of the mobile home park unless the claim or cause of action is dismissed with prejudice.

**Section 14** provides the act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill requires mobile home park owners to pay an additional \$1 surcharge per mobile home lot each year to be deposited into the trust fund. For 2002, the Department of Business and Professional Regulation estimates there were 330,390 lots filed with the Division of Land Sales, Condominiums, and Mobile Homes.

Also, the bill requires mobile home owners to pay an additional \$1 surcharge for each license to be deposited into the trust fund. The estimated number of mobile home registrations with the Department of Highway Safety and Motor Vehicles is estimated at 477,871.

**C. Government Sector Impact:**

With the estimated lot surcharge fees of \$330,390 plus the estimated registration surcharges of \$477,871, the fiscal impact on the trust fund is estimated by Department of Business and Professional Regulation to be an annual increase of \$811,261. This bill does provide a \$10 million cap. The Florida Manufactured Housing Association and the Federation of Manufactured Home Owners of Florida estimate that a 1,000 mobile homes per year may be relocated as the result of additional funding.

This bill allows a park owner to charge a fee for the cost of cleanup or repair of the exterior of a mobile home, the appurtenances to the mobile home, or any improvements to the mobile home lot if the obligation is specified by a rule or regulation, the rental agreement, or the prospectus and proper notice is given. As a result, there may be an increase in the number of complaints filed and number of amendments filed for review as park owners adopt rules to include the obligation to maintain these elements. However, the increased workload can be handled with existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Business and Professional Regulation anticipates that the division will need to amend rule 61B-32.004(4)-(5), F.A.C. to prevent the procedural aspects of the rule from becoming a substantive bar to a court proceeding. Presently, rule 61B-32.004(4)-(5), F.A.C., requires a petition to meet certain filing requirements. If it does not, the division denies the petition for mediation. Presently, the parties have the right to proceed to court if the division denies the petition. Under the amendment, a denial by the division for timeliness or failure to meet the filing requirements would preclude the parties from filing in court on the substantive issues provided in section 723.037, FS. The division currently has rulemaking authority and the division feels there is sufficient guidance in the bill to amend the existing rule.

**VIII. Amendments:**

#1 by Comprehensive Planning:

This is a clarifying amendment deleting “small claims court” and inserting “county court in an amount of money up to the jurisdiction of small claims.”

#2 by Comprehensive Planning:

This amendment inserts the word “and” to require that notice regarding the removal of a mobile home or its occupant shall be served on both the owner and the tenant or occupant, as appropriate.